

**TOWN OF EAST WINDSOR
INLAND WETLANDS WATERCOURSE AGENCY**

Regular Meeting – August 3, 2011

******* *Draft Document – Subject to Commission Approval* *******

CALL TO ORDER: Vice Chairman Osborn called the Meeting to order at 7:00 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

ESTABLISHMENT OF QUORUM:

Present: Regular Members Richard Osborn (Vice Chairman), Michael Koczera, Ronald Savaria, Michael Sawka, and Alternate Members Alan Baker, and Kathryn Roloff.

Unable to Attend: Regular Members John Malin and Robert Slate

Guests: Selectman Richard Pippin (Inland/Wetlands Liaison); Kathy Pippin.

Vice Chairman Osborn noted the establishment of a quorum with four Regular and two Alternate Members as noted above. All Regular Members will sit in on votes this evening. Alternate Members will serve in rotation as noted at each Agenda Item.

Also in attendance was Wetlands Agent/Zoning Enforcement Officer Robin Newton.

AGENDA ADDITIONS:

MOTION: To ACCEPT the Agenda Addition of 18 Craftsman Road – STR, Inc. under AGENT DECISIONS.

Savaria moved/Sawka seconded/VOTE: In Favor: Unanimous

APPROVAL OF MINUTES – July 6, 2011:

MOTION: To APPROVE the Minutes of Regular Meeting dated July 6, 2011 with the following amendments:
Page 13, Line #581, under GENERAL BOARD DISCUSSION,
“.....during the previous Meeting when he ~~intimated~~
INTIMIDATED another gentleman participating.....”

Koczera moved/Savaria seconded/VOTE: In Favor: Unanimous

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NEW PUBLIC HEARINGS: None.

NEW BUSINESS: 08-2011 – GERRY WILCOX: 50 Newberry Road – Request for permit for regulated activities – to include construction of a concrete block wall and the construction of a detention basin for the expansion of equipment storage and trailer parking by filling of approximately 2,150 square feet of wetlands and creating 2,150 square feet of wetlands. This property is located on Newberry Road; nearest intersection is Thompson Road. Assessor's Map 092, Block 19, Lot 004. (65 day application period ends August 6, 2011).

Vice Chairman Osborn read the description of this Item of Business.

Wetlands Agent Newton reported Mr. Wilcox has contacted her to request an extension of this Application until the Commission's September Meeting. The extension will give the Applicant time for his engineer to address comments raised by Staff.

MOTION: To GRANT THE REQUEST FOR EXTENSION of Application 08-2011 – GERRY WILCOX: 50 Newberry Road – Request for permit for regulated activities – to include construction of a concrete block wall and the construction of a detention basin for the expansion of equipment storage and trailer parking by filling of approximately 2,150 square feet of wetlands and creating 2,150 square feet of wetlands. This property is located on Newberry Road; nearest intersection is Thompson Road. Assessor's Map 092, Block 19, Lot 004. Extension is granted through September 7, 2011.

Savaria moved/Koczera seconded/VOTE: In Favor: Unanimous

Wetlands Agent Newton noted that during the previous Meeting, which she did not attend, correspondence from an abutting property owner regarding this Application had been given to the Commission members. Wetlands Agent Newton noted the Wilcox Application is not a Public Hearing; other parties do not have the ability to offer public comment in the same manner as they would if a Public Hearing was being held. The correct protocol for gathering third party input is for an individual to contact Staff, who will determine the appropriate manner to address those concerns. With regard to information offered in the **CORRESPONDENCE** submitted to Commissioners as part of their July packet Wetlands Agent Newton READ FOR THE RECORD her memo dated August 3, 2011:

"In reviewing the materials that were received for the July 6th meeting, that I did not attend, it was brought to my attention that correspondence concerning the above referenced application was received and distributed to the Commission. I understand that only the request to hold a public hearing on the application was reviewed and that no other portion of the letter was read into the record.

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The Commission voted to not hold a public hearing on this matter and therefore may NOT take in outside comments including written correspondence. I am attaching a page from the 2009 Municipal Inland Wetland Commissioners Training Program, Segment 2, by the CT Attorneys General Office. It specifically states that the Commission may NOT receive information from the public. With that stated the letter provided on July 6, 2011 will not be considered as part of this record and will be placed in a complaint file within my office. If any Commissioner read the contents of the July 6, 2011 letter, you may not use that information as part of your decision making process.

I am advising the Commission that an additional letter was received in the office by Newberry Road Enterprises concerning this application which has also be made part of the complaint file.”

Discussion followed which reiterated, and clarified, Wetlands Agent Newton’s advisement to the Commission regarding public input during Public Hearings vs. a standard application. Commissioner Savaria questioned how abutting property owners have input regarding applications? Wetlands Agent Newton reported if an abutter has legitimate environmental concerns they can file under an Intervener status, or could file a petition containing 25 signatures. Absent either of those situations abutters can contact Staff regarding discussion of their concerns.

Wetlands Agent Newton noted the letters under discussion were read by Staff; those concerns will be addressed.

Wetlands Agent Newton also noted that Mr. Wilcox came in and spoke to Staff regarding his concerns for the Application for 68 Newberry Road.

NEW BUSINESS: 09-2011: NEWBERRY VILLAGE: Intersection of Newberry Road and Winkler Road, Request for permit modification to allow construction of Phase 3 prior to completion of Phase 2, and request 5 year extension of existing Permit. This property is located at the intersection of Newberry Road and Winkler Road. Assessor’s Map 104, Block 17, Lot 19 (Mourning Dove Trail] & Assessor’s Map 104, Block 17, 19-06. (65 day application period ends September 9, 2011).

Vice Chairman Osborn read the description of this Item of Business. Appearing to discuss this Application was Jay Ussery of J. R. Russo & Associates, LLC. Also present were Attorney Carl Landolino, and Jim Giorgio, owner.

LET THE RECORD SHOW Commissioner Koczera, as an adjacent land owner, stepped down from service. Vice Chairman Osborn queried Alternate Commissioners Baker and Roloff if they were familiar with the subject project; both replied affirmatively. LET THE RECORD SHOW Alternate Commissioners Baker and Roloff joined the Regular Members regarding discussion and action on this Application.

Mr. Ussery suggested that the Applicant is appearing before the Commission to renew, and combine, 2 existing Inland Wetlands Permits regarding the subject project. The initial permit was granted several years ago, and a second 3 year permit was issue in

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2008, to allow the developer to go into the current Phase III (as indicated by the yellow units on the plans before the Commission) prior to completion of Phase I. Mr. Ussery indicated that when the project was initially started the project phasing sequence was I through V, and at that time one of the conditions of approval was to go by the original phasing and complete Phase I before Phase II. Mr. Ussery noted they didn't start with Phase I, but rather started with Phase IV, which was off to itself on Winkler Road and was a smaller portion of the project. Mr. Ussery indicated that change was granted by the Commission. He noted the units shown on the plan by the red dots are units which are presently built; one duplex unit, shown in blue, remains to be built in Phase IV. Mr. Ussery indicated they are currently working in Phase I; the completed units are shown as red dots while those under contract or under construction are shown as blue dots.

Mr. Ussery reported that Mr. Giorgio would like to go into Phase III, which includes 5 single units and one duplex; sewers are available for Phase III. They have no intent to begin the largest phase on the west side of the project in the current economy.

Mr. Ussery also noted that sidewalks were proposed in the original development; Mr. Ussery indicated Mr. Giorgio would like to remove the sidewalks from the project. While the sidewalks might be a disturbance issue for the Inland Wetlands Commission they are also an issue for the Planning and Zoning Commission (PZC). Mr. Ussery indicated they have held preliminary discussion with the Planning and Zoning Commission regarding removal of the sidewalks; there was no firm decision regarding that request during discussion.

Jim Giorgio, 40 Barber Hill Road, East Windsor: Mr. Giorgio reported there is a proposed hiking trail between Phase IV and Phase III (Blue Heron Way to Mallard Court) which connects both phases. The residents would like to see that hiking trail completed. Discussion followed regarding contradictory plans suggesting subsequent elimination of the walking trail, yet under the 2008 approval the walking path remains on the plans. Wetlands Agent Newton referenced conflicting plans and approvals which contradict the intent of the trail. She noted earlier language in 2005 suggested elimination of a trail connecting Hemlock Court and Cedar Lane - neither street exists or is referenced in the current development - while subsequent approvals in 2007 and 2008 show the walking trail on the approved plan. Discussion followed regarding the intent of the trail; it was felt the trail was to be a path through the woods which included minimal removal of brush. Vice Chairman Osborn recalled this Commission objected to the walking trail as it is located within the Conservation Easement, and the Commission didn't want that area to be disturbed; no clearing is to occur within a Conservation Easement. Various Commissioners expressed their opinion to continue with a conservative walking path if the residents would like it to remain a part of the project.

Wetlands Agent Newton referenced her memo to the Commission dated August 3rd, noting she has recommended combining the two current Permits #1351 and #1358 into one new approval motion which will reflect all existing conditions. Wetlands Agent Newton also reported the file contains numerous plans; she has recommended she work

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with Mr. Ussery to combine the various plans into a new plan set reflecting the conditions of this potential Permit. Therefore the referenced plans identified in the proposed approval motion will be accurately identified after working with Mr. Ussery.

Wetlands Agent Newton noted the proposed approval motion includes Standard Conditions #1 through #13; she then reviewed proposed Additional Conditions #14 through #26.

Commissioner Roloff questioned the need to change the construction phasing; she questioned if the type of units could be switched around to allow completion of one phase prior to beginning another phase? Mr. Giorgio suggested he has proposed the phasing necessary for him to meet the market demand for units. If he changed the type of units as suggested by Commissioner Roloff he would loosing units.

Vice Chairman Osborn suggested Mr. Giorgio needs to do Phase III before Fall to get the infrastructure in in a timely manner. In response to Commissioner Baker's question regarding Mr. Giorgio's ability to stabilize Phase 3, Mr. Giorgio suggested he already has 150+/- of road in; he felt he can be finished by November and let nature take its course. Wetlands Agent Newton concurred; the Applicant needs to get the road in before the Fall and not start construction until after the breeding season in the Spring.

Wetlands Agent Newton also noted the earlier approval didn't included a requirement to not open a new phase until the previous phase was completed, while under the 2008 approval the restriction of completing a current phase prior to opening a new phase had been included. Discussion followed regarding what constitutes "substantially completed". Commissioner Baker felt the Commission's concern was having a bunch of phases open at the same time; that doesn't appear to be the case presently.

Wetlands Agent Newton noted that the Applicant had requested a 5 year Permit extension. She clarified that the Commission can't statutorily continue the permit period past 2014; if the Applicant hasn't completed the project by that time he would have to apply for a new Permit.

Wetlands Agent Newton referenced proposed Additional Condition #17 regarding the need for an Integrated Pest Management Plan. She noted review of the Applications file found this plan was to have been made a part of the homeowners paperwork; it appears that document was never drafted and should become a part of this current renewal permit.

Wetlands Agent Newton continued to review the proposed Additional Conditions

Attorney Carl Landolino requested to speak. Attorney Landolino reported Mr. Giorgio owns another 14 acres which have not been completed, plus the amount of acreage being worked on. He reported that an additional 80 acres, which is held in the Conservation Easement, is owned by LTP Realty. Both Newberry Village and LTP Realty are a party to these applications, and have given their permission to Mr. Giorgio to do whatever is

necessary to move this project along.

Discussion returned to the issue of the walking trail. The Commission decided to add Condition #27 which identifies the location of the walking trail as being between the streets currently identified as Mallard Court and Blue Heron Way. The Commission requested clarification that the path can include only selected trimming and pruning.

MOTION TO APPROVE: Application 09-2011 – Newberry Village, LLC- Modification and Renewal of Permits 1351 & 1358, to be known as Permit 09-2011, for a 92 unit active adult development and associated infrastructure.

This approval is granted subject to conformance with the referenced plans (as may be modified by the Conditions) and the following conditions:

Referenced Plans:

- **Staff will work with Applicant's consultant to finalize revised plans to be referenced as part of this approval.**

Standard Conditions:

1. The Commission or its designated agent must be notified in writing no later than 48 hours prior to the commencement of permitted activities, and upon completion of said activities.
2. **The applicant/contractor shall schedule a pre-constructing meeting with the Inland Wetland Agent to be held no sooner than two weeks before the start of any new phase are to begin.** The applicant shall, at that time, review with the Inland Wetland Agent the procedures to be taken to protect the wetland areas prior to and during construction.
3. The burden to extend the approved timeframe for the regulated activity (and the time period for the original permit) is on the permittee; the Town of East Windsor is not required to give notice of the permit's expiration.
4. This permit shall not be assigned or transferred without the approval of the Agency.
5. This document shall be included in all construction contracts and sub-contracts dealing with the work proposed and shall supersede all other contract requirements.
6. During the construction phase, the applicant shall be responsible for maintaining a copy of this permit at the site.

7. The Permittee shall permit the Chairman of the Inland Wetland Agency, or its authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this Permit is in accordance with the terms and conditions prescribed herein.
8. Prior to the start of construction, adequate erosion and sedimentation control measures shall be implemented, and shall be maintained throughout the entire construction phase in accordance with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control until the site has become stabilized with permanent vegetative cover. The construction site shall be left in a stable condition at the close of each day. An adequate stockpile of erosion control materials shall be on site at all times for emergency or routine replacement and shall include materials to repair silt fences, haybales, stone-riprap filter dikes or any other devices planned for use during construction. **Additional erosion control measures are to be installed as directed by the Town Staff if field conditions necessitate.**
9. These permit conditions apply only to the work approved by this permit. Any other work to be done within the area of regulatory interest shall require the filing of a new or modified Inland Wetlands Application for consideration by the Commission.
10. If any alteration of the wetland/resource area does occur, the Commission shall impose such measures as it finds necessary to protect and restore those areas.
11. All temporary barriers, including erosion and sedimentation controls are to be removed (in suitable weather conditions) upon completion of the project.
12. A copy of the As-Built plan shall be submitted to this Commission upon completion of the project. The as-built will be reviewed by the wetland agent and verified in the field.
13. The Commission reserves the right to impose additional conditions on any or all portions of this project that could impact an area of regulatory interest under the Inland Wetlands and Watercourses Regulations.

ADDITIONAL CONDITIONS:

14. The area of clearing for Phase 3 shall be marked in the field and adjusted at the request of the Wetland Agent in order to protect vernal pool 7F. If too much clearing takes place it can negatively impact the pool characteristics by increasing the pool temperature and the amount of leaf litter used by the wood frogs in these pools.

15. *It is understood that no other Phases shall be opened until Phases 1 and 3 are completed.*
16. *This permit will expire on November 3, 2014.* It is the applicant's responsibility to apply for a new wetland permit before the expiration of this permit.
17. If the Integrated Pest management plan has not been drafted and made a part of the Homeowner's Association paperwork, this shall be done by October 31, 2011.
18. *No site work including road work, utility work, site grading, digging of foundations, pumping of water from open foundations and other similar activities may occur between March 1st and May 1st of each year.*
19. Inground or above ground swimming pools are not permitted without the approval of the Inland Wetland Watercourses Agency.
20. Pesticide application for mosquitoes is prohibited and shall be noted on the documents for the Common Interest Community.
21. *Environmental Monitoring Assessments to be completed annually by May 15th by an environmental consultant and a report submit to the Commission for review.* These reports shall include not only the status of the vernal pools on site, number of species found in the pool, approximate number of egg masses, but also whether any of the mitigation practices outlined in Section 9 of the REMA report were completed during that year, including but not limited to, seeding, removal of invasive species and wetland mitigation.
22. *Conservation Easements Placards for Phase 4 shall be placed by the end of August 2011.*
23. Conservation Easements Placards shall be placed at the completion of each additional phase. It is also recommended that Conservation Placards be placed along the property line with the Prospect Hill Drive Area to give residents notice that the area is a conservation easement and not to trespass.
24. This Commission is recommending to the PZC that sidewalks be eliminated throughout this development. This development is age restricted with no children and provides a walking path between the units located on Winkler Road and the Newberry Road side of the development. Residents will utilize the road which is a private road not heavily traveled. This development is extremely environmentally sensitive and the development of the sidewalks will create more disturbances to the vernal pools and associated wetlands which could result in a negative impact on these natural resources.

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25. In Phase 3 the use of silt socks will be utilized in place of silt fence. The applicant shall time the placement of the silt sock within 48 hours of the clearing activity for this Phase.
26. The applicant will direct any “dirty” water from foundations into the road drainage system and NOT into the adjacent wetlands.
- 27. *Hiking trail between Mallard Court and Blue Heron Way will be constructed with selective trimming and pruning only.***

Savaria moved/Roloff seconded/

Vote: In Favor: Unanimous (Baker/Osborn/Roloff/Savaria/Sawka)

Opposed: No one

Abstained: Koczera

LET THE RECORD SHOW Commissioner Koczera returned to service on the Board.

NEW APPLICATIONS TO BE RECEIVED: None.

**MOTION: To TAKE THE AGENDA ITEMS OUT OF ORDER and move
Election of Officers after EXECUTIVE SESSION.**

Savaria moved/Baker seconded/VOTE: In Favor: Unanimous

Vice Chairman Osborn suggested that before the Commission moves to discussion of Miscellaneous Items he would like to note that former Commission Chairman Mike Ceppetelli did not get reappointed to the Wetlands Commission by the Board of Selectmen. Vice Chairman Osborn indicated that he, personally, felt Mr. Ceppetelli did a good job as a Commissioner and as the Commission’s Chairman. He is sad to see Mr. Ceppetelli leave the Commission. Vice Chairman Osborn noted he would like to thank Mr. Ceppetelli for his time on the Commission, and the job he has done.

MISCELLANEOUS/2) Informal Discussion – 4 New Park – Christopher Eseppe:

Appearing to discuss this Item of Business was Christopher Eseppe, of PDS Engineering, who represents the current property owner.

Mr. Eseppe reported that his client had purchased this property on New Park Road – which was thought to be a subdivided lot - approximately 1 ½ years ago. There is a pond on the property which was believed to be the result of an old golf course. The wetlands have been identified as being a 100’ distance from the pond, and flagged, by (soil scientist) Mike Gragnolati. Mr. Eseppe noted they have discussed options with Wetlands Agent Newton. They would need to cross the wetlands to bring in utilities, but would keep the connection to larger wetlands offsite.

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Wetlands Agent Newton reported this parcel is not officially a subdivision as the original developer didn't file the paperwork as required. Mr. Eseppe suggested the parcel was marketed as an approved subdivision, there is a deed in the Town Clerk's Office, but the developer at the time didn't file the map. Wetlands Agent Newton concurred that the lots were purchased with the thought that they were an approved subdivision, and were developable. They have discussed the configuration of the lots and the wetlands crossing. The onsite wetlands do connect to a bigger pocket of wetlands so it's important for the drainage to be connected. Mr. Eseppe reported he walked the site yesterday and it was dry, but there was water there in April.

Commissioner Baker questioned if Mr. Gragnolati had mentioned the quality of the wetlands? Mr. Eseppe suggested Mr. Gragnolati had felt the wetlands had already been a disturbed area. Commissioner Baker questioned if the pond was impounded now; he would like to keep the water flowing as it is today. Commissioner Savaria suggested any future application would need to discuss alternative development, such as coming in off another property. Mr. Eseppe reported they have already talked to the Public Works Department; they would like them to have a separate access and separate utilities.

The consensus of the Commission was that it was feasible for the owner to move forward with his project.

AGENT DECISIONS:

Wetlands Agent Newton reported she is seeking permission from the Commission to grant an Agent Decision for property at **18 Craftsman Road/STR, Inc.** This company has moved into the mushroom factory on Craftsman Road. They are upgrading the current parking lot and drainage outlet, which would cause 47 square feet of wetlands impact. The drainage structure will be all the way to the rear of the property, and will be a riprap stone lined channel with outlet. In order to get a nice grade, and not have more impact, they are proposing to grade right up to the edge of the wetlands. There will NOT be a substantial flow exiting through this outlet.

Jay Ussery, of J. R. Russo and Associates, who is representing the Applicant, noted that there is a slight reduction of impervious coverage at the property due to a reduction in the number of parking spaces from the current 600 spaces to approximately 400. The current parking lot is a mess and is falling apart; it didn't contain a formal drainage system. The property was formerly a farm operation and was built to farm standards. Mr. Ussery noted that STR, Inc. is consolidating several other nearby locations into this one facility, which will become their U. S. headquarters.

The Commission agreed to Wetlands Agent Newton granting an Agent Decision on the work.

STATUS REPORTS:

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Wetlands Agent Newton reported she had performed a final walk-through for the Mansions at Canyon Ridge today. The project is completely finished, and is gorgeous; the developer has done a fantastic job. The site is phenomenal.

CONFERENCES/SEMINARS/TRAINING:

Wetlands Agent Newton reported nothing in the way of promotional brochures has been received in the Planning Office in the past month. Discussion followed regarding involvement in continuing education for Commissioners.

CORRESPONDENCE:

Wetlands Agent Newton reported the office has received additional correspondence from Newberry Road Enterprises regarding the pending Application for 50 Newberry Road. The additional correspondence has been added to the complaint file as well, and will be addressed by Staff.

GENERAL BOARD DISCUSSION:

Commissioner Baker reported it's a shame the Commission has lost Mr. Ceppetelli as a Commission volunteer. Commissioner Baker felt Mr. Ceppetelli did a professional job, and he was well versed on the Board's topics. Commissioner Baker felt it was a shame to see Mr. Ceppetelli go.

Commissioner Savaria suggested a letter of appreciation be sent to Mr. Ceppetelli.

PUBLIC PARTICIPATION (Discussion on non-Agenda items only): None.

EXECUTIVE SESSION/1) Pending Litigation:

MOTION: TO GO INTO EXECUTIVE SESSION at 8:29 p.m. Attending: Vice Chairman Osborn, Commissioners Baker, Koczera, Savaria, Sawka, and Roloff; Wetlands Agent Newton; Recording Secretary Hoffman.

Savaria moved/Baker seconded/VOTE: In Favor: Unanimous

MOTION: TO COME OUT OF EXECUTIVE SESSION at 8:48 p.m.

Savaria moved/Roloff seconded/VOTE: In Favor: Unanimous

ELECTION OF OFFICERS:

Wetlands Agent Newton noted that with Mr. Ceppetelli's lack of reappointment by the Board of Selectmen the Commission must elect a new Chairman whose term will run from this Meeting through the annual Election of Officers in December. Discussion

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followed regarding the absence of two Regular Members at this Meeting, bylaw language referencing an election at the next Commission Meeting, and that the voting membership can consist of Regular and Alternate Members.

MOTION: To NOMINATE Ron Savaria as Chairman.

Koczera moved/Roloff seconded

DISCUSSION: Commissioner Savaria indicated he truly does not want to become Chairman, he likes being a regular member, but.....should he be chosen, he would make the following issues a priority: 1) Meetings would be conducted in a more formal manner, with questions being channeled through the Chairman, and discussion will be conducted in a more respectful and businesslike manner; 2) Commissioners will be asked to consistently attend Meetings, and to read packets prior to the Meeting in order to be prepared for discussion; 3) participation of Alternate Members is encouraged to the extent appropriate for the application on which they are sitting.

VOTE: In Favor: Baker/Koczera/Osborn/Roloff/Sawka
Opposed: No one
Abstained: Savaria

MOTION: To NOMINATE Mike Koczera as Secretary.

Sawka moved/Baker seconded/

VOTE: In Favor: Baker/Osborn/Roloff/Savaria/Sawka
Opposed: No one
Abstained: Koczera

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 9:10 p.m.

Roloff moved/Koczera seconded/VOTE: In Favor: Unanimous

Respectfully submitted:

Peg Hoffman, Recording Secretary, Inland Wetlands and Watercourse Commission
(4510)